

to proceedings under these rules of practice.

[42 FR 5358, Jan. 28, 1977]

PART 955—RULES OF PRACTICE BEFORE THE POSTAL SERVICE BOARD OF CONTRACT APPEALS

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AUTHORITY: 39 U.S.C. 204, 401; 41 U.S.C. 607, 608, 610.

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§ 955.1 Jurisdiction, procedure, service of documents.

(a) *Jurisdiction for considering appeals.* Pursuant to the Contract Disputes Act of 1978, 41 U.S.C. 601–613, the Postal Service Board of Contract Appeals

(Board) has jurisdiction to consider and decide any appeal from a decision of a contracting officer of the United States Postal Service or the Postal Regulatory Commission relative to a contract made by either. In addition the Board has jurisdiction over other matters assigned to it by the Postmaster General, and over matters otherwise authorized by applicable law.

(b) *Organization and location of the Board.* (1) The Board is located at 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201–3078. The Board's telephone number is (703) 812–1900, and its Web site is <http://www.usps.gov/judicial>. The Board's fax number is (703) 812–1901.

(2) The Board consists of the Judicial Officer as Chairman, the Associate Judicial Officer as Vice Chairman, and the Judges of the Board, as appointed by the Postmaster General in accordance with the Contract Disputes Act of 1978, 41 U.S.C. 601–613. All members of the Board shall meet the qualifications established in the Contract Disputes Act. In general, appeals are assigned to a panel of at least three members of the Board. The decision of a majority of the panel constitutes the decision of the Board.

(c) *Board procedures—* (1) *Rules.* Appeals to the Board are handled in accordance with the rules of the Board.

(2) *Administration and interpretation of rules.* These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay. Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. The Board may consider the Federal Rules of Civil Procedure for guidance in construing those Board rules that are similar to Federal Rules and for matters not specifically covered herein.

(3) *Time, computation, and extensions.* (i) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances.

(ii) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a federal holiday in which event the period shall run to the end of the next business day. Except as otherwise provided in these rules or an applicable order, prescribed periods of time are measured in calendar days rather than business days.

(iii) Requests for extensions of time from either party shall be made in writing stating good cause therefor, shall represent that the moving party has contacted the opposing party about the request, or made reasonable and good faith efforts to do so, and shall indicate whether the opposing party consents to the extension. If the request for extension of time is filed after the time for taking the required action has expired, the request should indicate the reasons for the party's failure to have submitted the request before that time expired.

(4) *Place of filings.* Unless the Board otherwise directs, pleadings and other communications shall be filed with the Recorder of the Board at its office at 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201-3078. Generally, and unless otherwise prescribed by law, rule or applicable Board order, the Board considers documents filed upon the earlier of receipt by the Recorder of the Board during the Board's working hours (8:45-4:45) or, if mailed, the date mailed to the Board. A United States Postal Service postmark shall be prima facie evidence that the document with which it is associated was mailed on the date of the postmark.

(5) *Service.* Documents shall be served personally or by mail, addressed to the party upon whom service is to be made. Copies of simultaneous briefs shall be filed directly with the Board for distribution and shall not be sent directly by the parties to each other. The party filing any other document with the Board shall send a copy thereof to the opposing party, by an equally or more expeditious means of transmittal, noting on the document filed with the

Board, or on the transmitting letter, that a copy has been so furnished. The filing of a document by fax transmission occurs upon receipt by the Board of the entire legible submission by fax. The Board may determine not to extend a deadline for filing if the extension is necessary solely because the Board's fax machine is busy or otherwise unavailable when a filing is due. Submissions filed by fax shall be followed promptly by filing by mail.

§ 955.2 Notice of appeals.

Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken, or may be filed directly with the Board. The notice of appeal must be mailed or otherwise filed within the time specified by applicable law.

§ 955.3 Contents of notice of appeal.

(a) A notice of appeal from a contracting officer's decision should indicate that an appeal is thereby intended. It should identify the contract by number or other identifying reference, and identify the decision from which the appeal is taken, or it should attach a copy of the contracting officer's decision. If an appeal is taken from the failure of a contracting officer to issue a decision, the notice of appeal should describe in detail the claim that the contracting officer has failed to decide and/or attach a copy of the claim that the contracting officer has failed to decide, and explain that the contracting officer has failed to decide the claim as required.

(b) The notice of appeal should be signed personally by the appellant (the contractor taking the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in § 955.7 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

§ 955.4 Forwarding of appeals.

Upon receipt of a notice of appeal in any form, the contracting officer shall